



The Plaintiff, Associated Recovery, LLC, opposes the Motion to Set Aside Default Judgment Re FXF.COM as filed by Mr. Ye Yu.

## I. INTRODUCTION

Mr. Ye Yu was not the registrant (owner) of Defendant FXF.COM on December 28, 2016, when the Original Complaint was filed or any time thereafter. Accordingly, Mr. Ye Yu has no standing to appear in this Court on behalf of the Defendant FXF.COM.

## II. BACKGROUND – DOMAIN NAME REGISTRATIONS

A **domain name registrar** is a commercial entity that manages the reservation of Internet **domain names**. A **domain name registrar** must be accredited by the Internet Corporation for Assigned Names and Numbers (“ICANN”) to register names through a generic top-level **domain** (gTLD) registry such as VeriSign, Inc. and/or a country code top-level **domain** (ccTLD) registry, and must enter into a Registrar Accreditation Agreement. *See* <https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en> , attached as Exhibit 1.

A **Registered Name Holder** (commonly referred to as “registrant” or “owner”) is the person or entity that holds the right to use a specific **domain name**. The **Registered Name Holder** can either be a person or an organization who is the **domain** name holder, legally bound by the terms-of-service agreements with a registrar, as required by ICANN. *See Id.*

ICANN requires registrars to maintain a WHOIS database which contains various information concerning each domain name including the name, email address and physical address of the Registered Name Holder. ICANN requires registrars to make the WHOIS database available for public search to lookup the information for each domain name. *See Id.* at Sec 3.3.

ICANN also mandates that registrants “provide accurate information for publication in directories such as WHOIS, and promptly update this to reflect any changes” within 15 days. See *Id.* at Domain Name Registrants’ Responsibilities in paragraph 4 on pdf. page 69 of Exhibit 1 and attached as Exhibit 2.

### **III. ARGUMENT**

#### **A. “Whoisguard, Inc.” Was the Registrant of FXF.COM -- Not Mr. Yu.**

Mr. Ye Yu does not have standing to bring the motion to set aside the default of the FXF.COM domain name because Mr. Ye Yu was not the registrant of the FXF.COM domain name at any time during the pendency of this proceeding.

At the time that Associated Recovery filed its complaint on December 28, 2015, the registrant of FXF.COM was “Whoisguard, Inc.” and the registrar was identified as eNom, Inc. Specifically, on December 28, 2015, eNom’s WHOIS database identified the registrant of FXF.COM as:

Registrant Organization: WHOISGUARD, INC.  
Registrant Street: P.O. BOX 0823-03411  
Registrant City: PANAMA  
Registrant State/Province: PANAMA  
Registrant Postal Code: 00000  
Registrant Country: PA  
Registrant Phone: [+507.8365503](tel:+507.8365503)  
Registrant Phone Ext:  
Registrant Fax: [+51.17057182](tel:+51.17057182)  
Registrant Fax Ext:  
Registrant Email:  
[15B93ABAFD0B47E787820FDA56E25280.PROTECT@WHOISGUARD.COM](mailto:15B93ABAFD0B47E787820FDA56E25280.PROTECT@WHOISGUARD.COM)

(Dkt. 1, Exhibit 6.)

Notably, eNom, Inc., does not identify Mr. Ye Yu as having any association with FXF.COM.

Plaintiff sent notices sent to the Defendant FFX.COM sent in accordance with 15 U.S.C. §1125(d)(2)(A)(ii)(II), which requires the Plaintiff to send notice to the registrant at the postal and e-mail address provided by the registrant to the registrar.

Despite Mr. Ye Yu's statements to the contrary, the e-mail address listed by eNom at the time the Original Complaint was filed was:

[15B93ABAFD0B47E787820FDA56E25280.PROTECT@WHOISGUARD.COM](mailto:15B93ABAFD0B47E787820FDA56E25280.PROTECT@WHOISGUARD.COM).

Notice of the filing of the Original Complaint was sent to the above referenced e-mail address and to the physical address identified above. Associated Recovery received no response to any of its notices. (Dkt. 1, PageID #260 at paragraphs 4 and 6.)

Pursuant to the Court's Order Granting Default Judgment, the registrant/owner of the FFX.COM domain name was changed from Whoisguard, Inc. to Associated Recover, LLC, vis-a-vis Verisign, Inc. Verisign, Inc., changed the registrar of record from eNom, Inc. to Uniregistry, Inc. Uniregistry, Inc., is the registrar for Associated Recovery for the FFX.COM domain name.

As noted, Mr. Ye Yu was not identified at the registrant of the FFX.COM domain name at the time of the filing of the Original Complaint. If Mr. Ye Yu is a representative of Whoisguard, Inc., Mr. Ye Yu would not have standing to file his motion on behalf of Whoisguard, Inc., because Whoisguard, Inc., is a corporation. A corporation can only be represented in this Court by an attorney at law and not a *pro se* defendant.

**B. Mr. Ye Yu's Exhibits Are Defective**

Mr. Ye Yu's Exhibits 1 and 2 to his Memorandum are curious.

Mr. Ye Yu's Exhibit 1 purports to be a Purchase and Sale Agreement through Sedo GmbH or Sedo LLC. This document is not executed and lacks any evidence of being consummated. It is clear that this document precedes any payment required at "consideration" to complete a contract. No evidence of any payment is provided. (Dkt. 76, PageID# 1378 at paragraph "c).")

Mr. Ye Yu's Exhibit 2 purports to a renewal payment through Namecheap.com, but it is merely an "Order Summary." The "Approval #" under the "Additional Transaction Details" is not entered. No evidence of any payment is provided. (Dkt. 76, PageID #1380.)

Regardless, Mr. Ye Yu's Exhibit 2 does not identify the registrant and is dated February 25, 2014. This exhibit does not prove anything about the ownership of the FXF.COM domain name on December 28, 2015. Even if Mr. Ye Yu were the owner in February 2014, he could have subsequently transferred the FXF.COM domain name to Whoisguard, Inc., at any time prior to the filing of the Original Complaint.

#### **IV. CONCLUSION**

Should Mr. Ye Yu tender credible evidence of his alleged ownership of the FXF.COM domain name on the filing date of the Original Complaint, Associated Recovery requests permission to file a surreply.

If Mr. Ye Yu demonstrates standing to file his motion, Associated Recovery asks that the Court maintain the *status quo* between the parties and order the domain name recovered by Associated Recovery through the default judgment to remain in its account with its registrar, Uniregistrar Corp., pending the outcome of this matter.

Date: September 1, 2016

/s/

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**CERTIFICATE OF SERVICE**

I, Rebecca J. Stempien Coyle, certify that on September 1, 2016, I sent a copy of the foregoing PLAINTIFF'S OPPOSITION TO MOTION TO SET ASIDE DEFAULT JUDGMENT by e-mail and on September 2, 2016, by first class mail to:

Mr. Ye Yu  
5001 Wilshire Boulevard, #112-528  
Los Angeles, California 90036  
info@yespire.com

and electronically filed the same on September 1, 2016, by using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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